

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
BEAUMONT DIVISION**

UNITED STATES and STATE OF TEXAS  
ex rel. DANIEL W. ELLIOTT, M.D. and  
LISA A. MINSLOFF, M.D.,

Plaintiffs,

v.

SOUTHEAST TEXAS MEDICAL  
ASSOCIATES, LLP; STEWARD HEALTH  
CARE SYSTEM; ONPOINT LAB, L.L.C.;  
BAPTIST HOSPITALS OF SOUTHEAST  
TEXAS; MUHAMMAD AZIZ, M.D.;  
JAMES HOLLY, M.D.; MARY CASTRO,  
M.D.; VIJAY KUMAR, M.D.; MICHAEL  
THOMAS, M.D.; SYED ANWAR, M.D.;  
CAESAR DEIPARINE, M.D.; RONALD  
PALANG, M.D.; ABSAR QURESHI, M.D.;  
DEAN HALBERT, M.D.; and WILLIAM  
GEORGE, M.D.,

Defendants.

CIVIL ACTION NO. 1:23-CV-00329  
JUDGE MICHAEL J. TRUNCALE

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**DEFENDANTS' JOINT RESPONSE TO RELATORS' MOTION TO COMPEL**

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Defendants Southeast Texas Medical Associates, LLP ("SETMA"); Steward Health Care System LLC ("Steward"); OnPoint Lab, L.L.C. ("OnPoint"); Baptist Hospitals of Southeast Texas ("Baptist" or "Baptist Hospital"); Muhammad Aziz, M.D.; James Holly, M.D.; Mary Castro, M.D.; Vijay Kumar, M.D.; Michael Thomas, M.D.; Syed Anwar, M.D.; Caesar Deiparine, M.D.; Ronald Palang, M.D.; Absar Qureshi, M.D.; and Dean Halbert, M.D. hereby file their response to Relators' Motion to Compel Defendants' Compliance with Initial Mandatory Disclosures ("Motion") and would respectfully show the Court as follows:

## **I. BACKGROUND**

Relators initiated this lawsuit by filing in the Marshall Division in April 2020 where it was assigned to Judge Gilstrap. On September 1, 2023, Judge Gilstrap signed an order transferring this case from the Marshall Division to the Beaumont Division. Dkt. No. 94. On September 5, 2023, this Court issued an Order Setting Civil Action for Rule 16 Management Conference (the “Order”) that ordered the parties to appear in Beaumont on October 11, 2023, for a case management conference. Dkt No. 95. The Order further directed the parties to complete initial mandatory disclosures by October 2, 2023. At this time, Defendants’ Joint Motion for a Temporary Stay of Discovery (“Joint Stay Motion”) and their respective motions to dismiss, which had been filed in June 2023 while this case remained before Judge Gilstrap, were still pending. *See* Dkt. Nos. 56, 58, 60–63. Through the Joint Stay Motion, Defendants sought an order temporarily staying discovery until after the Court ruled on the motion to transfer the case from Marshall to Beaumont and until after resolving Defendants’ motions to dismiss. Dkt. No. 60, at 5.

On September 1 and again on September 29, Defendants informed Relators that Defendants believed Judge Truncale should be given an opportunity to consider the motion to stay before any party was required to make further productions. On October 2, 2023, Relators made an initial production of documents. On October 3, 2023, Relators’ counsel emailed Defendants’ counsel to complain that Defendants had not yet produced documents. Mot., Ex. A (Dkt. No. 102-1, at 6). The parties scheduled a telephone conference for October 5, 2023, to meet and confer regarding this issue. During the meet and confer, Relators’ counsel informed Defendants’ counsel that they intended to file a motion to compel Defendants’ production of documents pursuant to the Order. *Id.* (Dkt No. 102-1, at 3). Given that the October 11 case management conference was less than a week away and that Defendants’ Joint Stay Motion remained outstanding, Defendants informed

Relators that addressing their complaints before this Court at the October 11 conference would be the most efficient use of the parties' time. *Id.* (Dkt. No. 102-1, at 1–2).

Relators disagreed. Later that day, they filed the Motion requesting that the “Court order Defendants to comply with the Order and produce all documents ‘relevant to a claim or defense of any party’ prior to the Rule 16 Management Conference on October 11, 2023.” Dkt. No. 102, at 3.

On October 11, 2023, the parties appeared before the Court for the case management conference. The Court raised the issue of pending discovery issues and advised the parties to reasonably resolve their discovery disputes. The Court noted the complexity of this case and the challenges it may pose to discovery efforts, suggested that a rolling document production would be appropriate, and extended the discovery and case management schedule by more than six months. However, the Court did not make any rulings on Relators' Motion nor did the Court rule on Defendants' Joint Stay Motion. The following day, it referred Relator's Motion to U.S. Magistrate Judge Christine L. Stetson. Dkt. No. 107. By October 17, 2023, Defendants had made an initial production of documents and served them on Relators. Dkts. 101, 109-111.

## **II. ARGUMENT**

Defendants request the Court deny the Motion which was unnecessary when made and which has since become moot. Relators requested an order compelling Defendants to make a production of documents before the October 11, 2023 case management conference. “[A]n action is moot when the court cannot grant the relief requested by the moving party.” *Salgado v. Fed. Bureau of Prisons*, 220 F. App'x 256, 257 (5th Cir. 2007); *see also Cloud v. Cumulus Media New Holdings, Inc.*, No. 3:22-CV-1673-N, 2023 WL 2700722, at \*1 (N.D. Tex. Mar. 29, 2023) (denying motion to compel depositions as moot where the parties reached agreement on the deposition date); *St. Gregory Cathedral Sch. v. LG Elecs., Inc.*, No. 6:12-cv-739, 2013 WL

12214144, at \*5 (E.D. Tex. Nov. 25, 2013) (denying motion to compel interrogatory response as moot where the defendants’ supplemental responses indicated defendants “agreed to produce the requested information”). Here, the Court cannot meaningfully grant the relief Relators’ requested relief for two reasons: (1) the October 11, 2023 case management conference was held over a week ago (and Judge Truncale declined, at that conference, to grant the motion to compel); and (2) Defendants made the requested initial productions on or before October 17, 2023. Therefore, the Motion is moot, and Defendants respectfully request that it be denied.

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Dated: October 19, 2023

Respectfully Submitted,

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### **CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on October 19, 2023, all counsel of record who are deemed to have consented to electronic services are being served with a copy of this document via email.

/s/ David W. Klaudt

David W. Klaudt